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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**

9 William Lee Bell,

10 Plaintiff,

11 v.

12 County of Maricopa, et al.,

13 Defendants.

14 No. CV 19-04809-PHX-MTL (JFM)

15 **ORDER**

16 On July 24, 2019, Plaintiff William Lee Bell, who is confined in the Arizona State  
17 Prison Complex-Yuma, filed a pro se civil rights Complaint pursuant to 42 U.S.C. § 1983  
18 and an Application to Proceed In Forma Pauperis. In an August 20, 2019 Order, the Court  
19 denied the deficient Application to Proceed and gave Plaintiff 30 days to either pay the  
20 \$400.00 filing and administrative fees or file a complete Application to Proceed In Forma  
Pauperis.

21 On September 20, 2019, Plaintiff paid the \$400.00 filing and administrative fees.  
22 In a December 23, 2019 Order, the Court dismissed the Complaint because Plaintiff had  
23 failed to state a claim. The Court gave Plaintiff 30 days to file an amended complaint that  
24 cured the deficiencies identified in the Order.

25 After requesting and receiving an extension of time, Plaintiff filed his First  
26 Amended Complaint on February 26, 2020 (Doc. 11). The Court will dismiss the First  
27 Amended Complaint with leave to amend.

28 . . .

1       **I.     Statutory Screening of Prisoner Complaints**

2           The Court is required to screen complaints brought by prisoners seeking relief  
3           against a governmental entity or an officer or an employee of a governmental entity. 28  
4           U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff  
5           has raised claims that are legally frivolous or malicious, that fail to state a claim upon which  
6           relief may be granted, or that seek monetary relief from a defendant who is immune from  
7           such relief. 28 U.S.C. § 1915A(b)(1)–(2).

8           A pleading must contain a “short and plain statement of the claim *showing* that the  
9           pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does  
10          not demand detailed factual allegations, “it demands more than an unadorned, the-  
11          defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678  
12          (2009). “Threadbare recitals of the elements of a cause of action, supported by mere  
13          conclusory statements, do not suffice.” *Id.*

14           “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a  
15          claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*,  
16          550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content  
17          that allows the court to draw the reasonable inference that the defendant is liable for the  
18          misconduct alleged.” *Id.* “Determining whether a complaint states a plausible claim for  
19          relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial  
20          experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s specific factual  
21          allegations may be consistent with a constitutional claim, a court must assess whether there  
22          are other “more likely explanations” for a defendant’s conduct. *Id.* at 681.

23          But as the United States Court of Appeals for the Ninth Circuit has instructed, courts  
24          must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338, 342  
25          (9th Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less stringent  
26          standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v. Pardus*, 551  
27          U.S. 89, 94 (2007) (per curiam)).

28          . . .

1        If the Court determines that a pleading could be cured by the allegation of other  
2 facts, a pro se litigant is entitled to an opportunity to amend a complaint before dismissal  
3 of the action. *See Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc).  
4 Plaintiff's First Amended Complaint will be dismissed for failure to state a claim, but  
5 because it may possibly be amended to state a claim, the Court will dismiss it with leave  
6 to amend.

7        **II. First Amended Complaint**

8        In his three-count First Amended Complaint, Plaintiff names the following  
9 Defendants: Arizona Attorney General Mark Brnovich; former Maricopa County Attorney  
10 William G. Montgomery; current Maricopa County Attorney Allister Adel; Maricopa  
11 County Superior Court Judges R. Northwher, Douglas Gerlach, Sherry K. Stephens, and  
12 Dewain D. Fox; Maricopa County Superior Court Chief Judges Janet Barton and Patricia  
13 Starr; Maricopa County; and the Maricopa County Superior Court. Plaintiff asserts access-  
14 to-the-courts claims and seeks monetary damages and injunctive relief.

15        In **Count One**, Plaintiff alleges that on July 17, 2018, he filed several “procedural  
16 motions” in the Maricopa County Superior Court. Plaintiff claims Defendants violated the  
17 Arizona Constitution, Arizona Rules of Criminal Procedure, Arizona Supreme Court  
18 Rules, Superior Court Rules, Arizona Code of Judicial Conduct, and the Fifth Amendment  
19 because they “ignore[d the] lack of jurisdiction.” Plaintiff claims “all Defendants were  
20 involved either by a letter, motions, or a notice of claim,” and all Defendants “had an  
21 obligation to act and refused to.”

22        In **Count Two**, Plaintiff alleges that on November 23, 2018, he filed a procedural  
23 motion. On January 8, 2019, Defendants Brnovich, Montgomery, Northwher, Maricopa  
24 County, Maricopa County Superior Court, Adel, and Starr violated the First, Fifth, and  
25 Fourteenth Amendments by “making Plaintiff advance money or fees to have his motion  
26 heard.” Plaintiff claims these Defendants ordered Plaintiff to pay a \$55.00 court fee on  
27 January 23, 2019 to have his motion considered. On April 22, 2019, these Defendants  
28 informed Plaintiff that his motion would be considered in ninety days, in violation of the

1 Arizona Constitution, the United States Constitution, and other “U.S.C. Codes.” Plaintiff  
2 claims these Defendants are liable for “abuse of process, violating policies, procedures,  
3 rules, and customs [and] non-judicial acts.”

4       In **Count Three**, Plaintiff alleges that Defendants acted with deliberate indifference  
5 when they failed to respond to his motion challenging jurisdiction, as “any matter  
6 submitted to [a] superior court judge shall be ruled upon in 60 days.” Plaintiff claims he  
7 “exhausted all remedies possible and the Arizona Judicial System, along with nine of the  
8 Defendants, ma[de] it clear that [his] petitions to the court will not be heard.”

9       As his injury in each count, Plaintiff alleges he was deprived of life, liberty, and  
10 property without due process or equal protection and suffered lost wages, an unspecified  
11 “mental health injury,” and a loss of reputation.

### 12       **III. Failure to State a Claim**

13       To prevail in a § 1983 claim, a plaintiff must show that (1) acts by the defendants  
14 (2) under color of state law (3) deprived him of federal rights, privileges or immunities and  
15 (4) caused him damage. *Thornton v. City of St. Helens*, 425 F.3d 1158, 1163-64 (9th Cir.  
16 2005) (quoting *Shoshone-Bannock Tribes v. Idaho Fish & Game Comm'n*, 42 F.3d 1278,  
17 1284 (9th Cir. 1994)). In addition, a plaintiff must allege that he suffered a specific injury  
18 as a result of the conduct of a particular defendant and he must allege an affirmative link  
19 between the injury and the conduct of that defendant. *Rizzo v. Goode*, 423 U.S. 362, 371-  
20 72, 377 (1976).

#### 21       **A. Maricopa County**

22       A municipality, such as Maricopa County, may not be sued solely because an injury  
23 was inflicted by one of its employees or agents. *Long v. County of Los Angeles*, 442 F.3d  
24 1178, 1185 (9th Cir. 2006). A § 1983 claim against a municipal defendant “cannot succeed  
25 as a matter of law” unless a plaintiff: (1) contends that the municipal defendant maintains  
26 a policy or custom pertinent to the plaintiff’s alleged injury; and (2) explains how such  
27 policy or custom caused the plaintiff’s injury. *Sadoski v. Mosley*, 435 F.3d 1076, 1080 (9th  
28 Cir. 2006) (affirming dismissal of a municipal defendant pursuant to Fed. R. Civ. P.

12(b)(6)).

2 Plaintiff has not alleged that Maricopa County maintained a policy or custom that  
3 resulted in a violation of his constitutional rights. Accordingly, Defendant Maricopa  
4 County will be dismissed.

5 **B. Maricopa County Superior Court**

6 Plaintiff sues the Maricopa County Superior Court. However, a “state court is not  
7 a ‘person’ for purposes of 42 U.S.C. § 1983 and hence is not subject to lawsuit under that  
8 statute.” *Mumford v. Basinski*, 105 F.3d 264, 267 (6th Cir. 1997); *see also Mumford v.*  
9 *Zieba*, 4 F.3d 429, 435 (6th Cir. 1997) (citing *Foster v. Walsh*, 864 F.2d 416, 418 (6th Cir.  
10 1988)); *Clark v. Clark*, 984 F.2d 272, 273 (8th Cir. 1993); *Rothstein v. Montana Supreme*  
11 *Court*, 638 F. Supp. 1311, 1312 (D. Mont. 1986); *Louis v. Supreme Court of Nevada*, 490  
12 F. Supp. 1174, 1180 (D. Nev. 1980) (as a state is not a “person” within the meaning of §  
13 1983, neither is the state’s supreme court a “person” under the statute). According, the  
14 Maricopa County Superior Court will be dismissed from this action.

15 **C. Maricopa County Judges Northwher, Gerlach, Stephens, Fox, Barton,  
16 and Starr**

17 Judges are absolutely immune from damages for all judicial acts performed within  
18 their subject-matter jurisdiction, “even when such acts are in excess of their jurisdiction,  
19 and are alleged to have been done maliciously or corruptly.” *Stump v. Sparkman*, 435 U.S.  
20 349, 356 (1978); *Sadoski*, 435 F.3d 1at 1079; *Harvey v. Waldron*, 210 F.3d 1008, 1012  
21 (9th Cir. 2000). An act is “judicial” when it is a function normally performed by a judge  
22 and the parties dealt with the judge in the judge’s judicial capacity. *Stump*, 435 U.S. at  
23 362; *Crooks v. Maynard*, 913 F.2d 699, 700 (9th Cir. 1990). Such immunity also “extends  
24 to actions for declaratory, injunctive and other equitable relief.” *Mullis v. Bankruptcy*  
25 *Court for the Dist. of Nev.*, 828 F.2d 1385, 1394 (9th Cir. 1987).

26 Plaintiff has not made any specific allegations against Defendants Northwher,  
27 Gerlach, Stephens, Fox, Barton, and Starr. Furthermore, Northwher, Gerlach, Stephens,  
28 Fox, Barton, and Starr are absolutely immune from any actions taken in connection with

1 Plaintiff's criminal proceeding. Therefore, the Court will dismiss Defendants Northwher,  
2 Gerlach, Stephens, Fox, Barton, and Starr.

3 **D. Montgomery and Adel**

4 Prosecutors are absolutely immune from liability under § 1983 for their conduct in  
5 "initiating a prosecution and in presenting the State's case" insofar as that conduct is  
6 "intimately associated with the judicial phase of the criminal process." *Buckley v.*  
7 *Fitzsimmons*, 509 U.S. 259, 270 (1993) (citing *Imbler v. Pachtman*, 424 U.S. 409, 430  
8 (1976)); *Burns v. Reed*, 500 U.S. 478, 486 (1991); *Ashelman v. Pope*, 793 F.2d 1072, 1076  
9 (9th Cir. 1986).

10 Plaintiff has not made any specific allegations against Defendants Montgomery or  
11 Adel. Furthermore, Montgomery and Adel are absolutely immune from any actions taken  
12 in initiating and presenting the state's case during Plaintiff's criminal proceedings.  
13 Therefore, the Court will dismiss Defendants Montgomery and Adel.

14 **E. Brnovich**

15 Plaintiff has not made any specific allegations against Defendant Brnovich.  
16 Plaintiff has not alleged that Defendant Brnovich personally participated in a deprivation  
17 of Plaintiff's constitutional rights, was aware of a deprivation and failed to act, or formed  
18 policies that resulted in Plaintiff's injuries. Thus, the Court will dismiss Defendant  
19 Brnovich without prejudice.

20 **F. Access-to-the-Courts**

21 The right of meaningful access to the courts prohibits officials from actively  
22 interfering with inmates' attempts to prepare or file legal documents. *Lewis v. Casey*, 518  
23 U.S. 343, 350 (1996). The right of access to the courts is only a right to bring petitions or  
24 complaints to federal court and not a right to discover such claims or even to litigate them  
25 effectively once filed with a court. *Id.* at 354. The right "guarantees no particular  
26 methodology but rather the conferral of a capability—the capability of bringing  
27 contemplated challenges to sentences or conditions of confinement before the courts." *Id.*  
28 at 356.

1           As a matter of standing, for an access-to-courts claim, a plaintiff must show that he  
2 suffered an “actual injury” with respect to contemplated litigation. *Id.* at 349. To show  
3 actual injury with respect to contemplated litigation, the plaintiff must demonstrate that the  
4 defendants’ conduct frustrated or impeded him from bringing to court a nonfrivolous claim  
5 that he wished to present. *Id.* at 352-53.

6            “[T]he injury requirement is not satisfied by just any type of frustrated legal claim.”  
7 *Id.* at 354. The right of access to the courts “does not guarantee inmates the wherewithal  
8 to transform themselves into litigating engines capable of filing everything from  
9 shareholder derivative actions to slip-and-fall claims.” *Id.* at 355. The nonfrivolous claim  
10 must be a direct or collateral attack on the inmate’s sentence or a challenge to the conditions  
11 of his confinement. *Id.* “Impairment of any *other* litigating capacity is simply one of the  
12 incidental (and perfectly constitutional) consequences of conviction and incarceration.” *Id.*  
13 (emphasis in original).

14           Even if Plaintiff had linked his allegations to a properly named defendant, his  
15 allegations would fail to state a claim upon which relief may be granted. Plaintiff’s  
16 allegations are far too vague and conclusory to state an access-to-the-courts claim, as  
17 Plaintiff has not alleged facts to support that any individual interfered with his right to bring  
18 a petition or complaint to court challenging his sentence or conditions of his confinement.  
19 Plaintiff has also failed to allege facts to support he suffered an actual injury. Accordingly,  
20 the Court will dismiss Plaintiff’s access-to-the-courts claims.

21            **G. State Law Claims**

22            “A court may decline to exercise supplemental jurisdiction over related state-law  
23 claims once it has ‘dismissed all claims over which it has original jurisdiction.’” *See Ove*  
24 *v. Gwinn*, 264 F.3d 817, 826 (9th Cir. 2001)) (quoting 28 U.S.C. § 1367(c)(3)); *Gini v. Las*  
25 *Vegas Metro. Police Dep’t*, 40 F.3d 1041, 1046 (9th Cir. 1994) (when federal law claims  
26 are eliminated before trial, the court generally should decline jurisdiction over state law  
27 claims and dismiss them without prejudice). Because Plaintiff fails to state a federal claim  
28 in the First Amended Complaint, as discussed above, the Court declines to exercise

1 supplemental jurisdiction over Plaintiff's state law claims. Accordingly, Plaintiff's state  
2 law claims will be dismissed.

3 **IV. Leave to Amend**

4 For the foregoing reasons, Plaintiff's First Amended Complaint will be dismissed  
5 for failure to state a claim upon which relief may be granted. Within 30 days, Plaintiff may  
6 submit a second amended complaint to cure the deficiencies outlined above. The Clerk of  
7 Court will mail Plaintiff a court-approved form to use for filing a second amended  
8 complaint. If Plaintiff fails to use the court-approved form, the Court may strike the second  
9 amended complaint and dismiss this action without further notice to Plaintiff.

10 Plaintiff must clearly designate on the face of the document that it is the "Second  
11 Amended Complaint." The second amended complaint must be retyped or rewritten in its  
12 entirety on the court-approved form and may not incorporate any part of the original  
13 Complaint or First Amended Complaint by reference. Plaintiff may include only one claim  
14 per count.

15 A second amended complaint supersedes the original Complaint and First Amended  
16 Complaint. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v.*  
17 *Richard Feiner & Co.*, 896 F.2d 1542, 1546 (9th Cir. 1990). After amendment, the Court  
18 will treat the original Complaint and First Amended Complaint as nonexistent. *Ferdik*,  
19 963 F.2d at 1262. Any cause of action that was raised in the original Complaint or First  
20 Amended Complaint and that was voluntarily dismissed or was dismissed without  
21 prejudice is waived if it is not alleged in a second amended complaint. *Lacey v. Maricopa*  
22 *County*, 693 F.3d 896, 928 (9th Cir. 2012) (en banc).

23 Plaintiff should note that a federal district court, such as this one, is not a court of  
24 review for decisions by a state trial court, such as the Maricopa County Superior Court, nor  
25 does a federal district court ordinarily have jurisdiction to compel a state trial court to act  
26 in a case pending before it. A federal court must decline jurisdiction whenever it is "in  
27 essence being called upon to review the state court decision." *Doe & Assocs. Law Offices*  
28 *v. Napolitano*, 252 F.3d 1026, 1030 (9th Cir. 2001) (applying the *Rooker-Feldman*

1 doctrine).

2 **V. Warnings**

3 **A. Address Changes**

4 Plaintiff must file and serve a notice of a change of address in accordance with Rule  
5 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other  
6 relief with a notice of change of address. Failure to comply may result in dismissal of this  
7 action.

8 **B. Possible “Strike”**

9 Because the First Amended Complaint has been dismissed for failure to state a  
10 claim, if Plaintiff fails to file a second amended complaint correcting the deficiencies  
11 identified in this Order, the dismissal may count as a “strike” under the “3-strikes”  
12 provision of 28 U.S.C. § 1915(g). Under the 3-strikes provision, a prisoner may not bring  
13 a civil action or appeal a civil judgment in forma pauperis under 28 U.S.C. § 1915 “if the  
14 prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility,  
15 brought an action or appeal in a court of the United States that was dismissed on the  
16 grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be  
17 granted, unless the prisoner is under imminent danger of serious physical injury.” 28  
18 U.S.C. § 1915(g).

19 **C. Possible Dismissal**

20 If Plaintiff fails to timely comply with every provision of this Order, including these  
21 warnings, the Court may dismiss this action without further notice. *See Ferdik*, 963 F.2d  
22 at 1260-61 (a district court may dismiss an action for failure to comply with any order of  
23 the Court).

24 **IT IS ORDERED:**

25 (1) The First Amended Complaint (Doc. 11) is **dismissed** for failure to state a  
26 claim. Plaintiff has **30 days** from the date this Order is filed to file a second amended  
27 complaint in compliance with this Order.

28 . . . .

5 (3) The Clerk of Court must mail Plaintiff a court-approved form for filing a  
6 civil rights complaint by a prisoner.

7 Dated this 2nd day of April, 2020.

9  
10 Michael T. Liburdi  
11 Michael T. Liburdi  
United States District Judge

## **Instructions for a Prisoner Filing a Civil Rights Complaint in the United States District Court for the District of Arizona**

1. **Who May Use This Form.** The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
2. **The Form.** **Local Rule of Civil Procedure (LRCiv) 3.4(a) provides that complaints by incarcerated persons must be filed on the court-approved form.** The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
3. **Your Signature.** You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. **The Filing and Administrative Fees.** The total fees for this action are \$400.00 (\$350.00 filing fee plus \$50.00 administrative fee). If you are unable to immediately pay the fees, you may request leave to proceed in forma pauperis. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court In Forma Pauperis Pursuant to 28 U.S.C. § 1915” for additional instructions.
5. **Original and Judge's Copy.** You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**
6. **Where to File.** You should file your complaint in the division **where you were confined when your rights were allegedly violated.** *See LRCiv 5.1(a) and 77.1(a).* If you were confined in Maricopa, Pinal, Yuma, La Paz, or Gila County, file in the Phoenix Division. If you were confined in Apache, Navajo, Coconino, Mohave, or Yavapai County, file in the Prescott Division. If you were confined in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file in the Tucson Division. **Mail the original and one copy of the complaint with the \$400 filing and administrative fees or the application to proceed in forma pauperis to:**

Phoenix & Prescott Divisions:  
U.S. District Court Clerk  
U.S. Courthouse, Suite 130  
401 West Washington Street, SPC 10  
Phoenix, Arizona 85003-2119

**OR**

Tucson Division:  
U.S. District Court Clerk  
U.S. Courthouse, Suite 1500  
405 West Congress Street  
Tucson, Arizona 85701-5010

7. **Change of Address.** You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. **Certificate of Service.** You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed in forma pauperis). Each original document (except the initial complaint and application to proceed in forma pauperis) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. *See Fed. R. Civ. P. 5(a), (d).* Any document received by the Court that does not include a certificate of service may be stricken. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**

A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed  
this \_\_\_\_\_ (month, day, year) to:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

Attorney for Defendant(s)

\_\_\_\_\_  
(Signature)

9. **Amended Complaint.** If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court within 21 days after serving it or within 21 days after any defendant has filed an answer, whichever is earlier. *See Fed. R. Civ. P. 15(a).* Thereafter, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. LRCiv 15.1. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. LRCiv 15.1(a)(2). **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

10. **Exhibits.** You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

11. **Letters and Motions.** It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

12. Completing the Civil Rights Complaint Form.

**HEADING:**

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.
2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words “and others” on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it “1-A” at the bottom.
3. Jury Demand. If you want a jury trial, you must write “JURY TRIAL DEMANDED” in the space below “CIVIL RIGHTS COMPLAINT BY A PRISONER.” Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

**Part A. JURISDICTION:**

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “*Bivens v. Six Unknown Federal Narcotics Agents*” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.
2. Location. Identify the institution and city where the alleged violation of your rights occurred.
3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

**Part B. PREVIOUS LAWSUITS:**

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

**Part C. CAUSE OF ACTION:**

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. **Counts**. You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**
2. **Issue Involved**. Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked "Other," you must identify the specific issue involved.
3. **Supporting Facts**. After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.
4. **Injury**. State precisely how you were injured by the alleged violation of your rights.
5. **Administrative Remedies**. You must exhaust any available administrative remedies before you file a civil rights complaint. *See 42 U.S.C. § 1997e.* Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.

**Part D. REQUEST FOR RELIEF:**

Print the relief you are seeking in the space provided.

**SIGNATURE:**

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

**FINAL NOTE**

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.

Name and Prisoner/Booking Number \_\_\_\_\_

Place of Confinement \_\_\_\_\_

Mailing Address \_\_\_\_\_

City, State, Zip Code \_\_\_\_\_

**(Failure to notify the Court of your change of address may result in dismissal of this action.)**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

\_\_\_\_\_,  
(Full Name of Plaintiff)

Plaintiff,

v.

(1) \_\_\_\_\_,  
(Full Name of Defendant)

(2) \_\_\_\_\_,

(3) \_\_\_\_\_,

(4) \_\_\_\_\_,

Defendant(s).

Check if there are additional Defendants and attach page 1-A listing them.

**CASE NO. \_\_\_\_\_**  
(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT  
BY A PRISONER**

Original Complaint  
 First Amended Complaint  
 Second Amended Complaint

**A. JURISDICTION**

1. This Court has jurisdiction over this action pursuant to:

28 U.S.C. § 1343(a); 42 U.S.C. § 1983  
 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).  
 Other: \_\_\_\_\_.

2. Institution/city where violation occurred: \_\_\_\_\_.

## B. DEFENDANTS

1. Name of first Defendant: \_\_\_\_\_ The first Defendant is employed as: \_\_\_\_\_ at \_\_\_\_\_.  
(Position and Title) (Institution)
2. Name of second Defendant: \_\_\_\_\_ The second Defendant is employed as: \_\_\_\_\_  
as: \_\_\_\_\_ at \_\_\_\_\_.  
(Position and Title) (Institution)
3. Name of third Defendant: \_\_\_\_\_ The third Defendant is employed as: \_\_\_\_\_ at \_\_\_\_\_.  
(Position and Title) (Institution)
4. Name of fourth Defendant: \_\_\_\_\_ The fourth Defendant is employed as: \_\_\_\_\_ at \_\_\_\_\_.  
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

## C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner?  Yes  No
2. If yes, how many lawsuits have you filed? \_\_\_\_\_. Describe the previous lawsuits:
  - a. First prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_.
  - b. Second prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_.
  - c. Third prior lawsuit:
    1. Parties: \_\_\_\_\_ v. \_\_\_\_\_
    2. Court and case number: \_\_\_\_\_
    3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_.

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

#### **D. CAUSE OF ACTION**

## COUNT I

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_

2. **Count I.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

Basic necessities       Mail       Access to the court       Medical care  
 Disciplinary proceedings       Property       Exercise of religion       Retaliation  
 Excessive force by an officer       Threat to safety       Other: \_\_\_\_\_.

**3. Supporting Facts.** State as briefly as possible the FACTS supporting Count I. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

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## 5. Administrative Remedies:

a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No

b. Did you submit a request for administrative relief on Count I?  Yes  No

c. Did you appeal your request for relief on Count I to the highest level?  Yes  No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

## COUNT II

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_  
\_\_\_\_\_.

2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

Basic necessities       Mail       Access to the court       Medical care  
 Disciplinary proceedings       Property       Exercise of religion       Retaliation  
 Excessive force by an officer       Threat to safety       Other: \_\_\_\_\_.

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count II. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

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## 5. Administrative Remedies.

a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No

b. Did you submit a request for administrative relief on Count II?  Yes  No

c. Did you appeal your request for relief on Count II to the highest level?  Yes  No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

### COUNT III

1. State the constitutional or other federal civil right that was violated: \_\_\_\_\_  
\_\_\_\_\_.  
\_\_\_\_\_.

2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

Basic necessities       Mail       Access to the court       Medical care  
 Disciplinary proceedings       Property       Exercise of religion       Retaliation  
 Excessive force by an officer       Threat to safety       Other: \_\_\_\_\_.

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

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5. **Administrative Remedies.**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution?  Yes  No
- b. Did you submit a request for administrative relief on Count III?  Yes  No
- c. Did you appeal your request for relief on Count III to the highest level?  Yes  No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. \_\_\_\_\_

**If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.**

## **E. REQUEST FOR RELIEF**

State the relief you are seeking:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_  
DATE

**SIGNATURE OF PLAINTIFF**

(Name and title of paralegal, legal assistant, or other person who helped prepare this complaint)

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(Signature of attorney, if any)

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(Attorney's address & telephone number)

## ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.